

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

BARBEE HEBRON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No.
	)	
DR. TONY C. LAM, and	)	
PEOPLE'S HEALTH CENTERS, INC.,	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

Defendant, Tony C. Lam, M.D., a physician at People's Health Centers, Inc., at the time of the incident alleged in the Complaint, sued in his individual capacity, hereby gives notice pursuant to 28 U.S.C. §§ 1446(a) & 1442(a)(1), 28 U.S.C. §2679(d)(2), and 42 U.S.C. §233(c), by and through his attorneys, Michael W. Reap, Acting United States Attorney for the Eastern District of Missouri, and Nicholas P. Llewellyn, Assistant United States Attorney for said District, that he is removing this action to the United States District Court for the Eastern District of Missouri, Eastern Division, on the following grounds:

1. Defendant Tony C. Lam, M.D. is a defendant in a civil action now pending in the Circuit Court of St. Louis City, State of Missouri, Cause No. 0922-CC01842.
2. The action in state court against Tony C. Lam, M.D. and People's Health Centers, Inc., is a civil Petition for medical malpractice alleging negligent and careless medical care. The specific allegations against Defendants are contained in Plaintiff's Petition. See Plaintiff's Petition, ¶ 6(a) through (f). Plaintiff Barbie Hebron claims she sustained injuries as a direct and proximate cause of said alleged negligence and carelessness. As a result of said alleged wrongful acts and/or omissions, Plaintiff "suffered a rectovaginal fistula which caused feces to discharge from her vagina; Plaintiff suffered damage to her rectum and sphinc; Plaintiff suffered damage to her perinea body;

Plaintiff was forced to undergo corrective surgery on July 17, 2007; . . . Plaintiff has suffered the loss of the ability to have future vaginal deliveries and may now deliver only through cesarean section; . . . Plaintiff has suffered pecuniary loss, loss of past and future earnings, and has incurred medical expenses.” See Plaintiff’s Petition, ¶ 7.

3. The Acting United States Attorney has certified that Defendant Tony C. Lam, M.D., was acting within the scope of his employment at the time of the incident out of which the suit arises, pursuant to the Federally Supported Health Centers Assistance Act of 1992, Pub. L.102-501. (See attached declaration of Acting United States Attorney Michael W. Reap.) People’s Health Centers, Inc., was deemed eligible for Federal Torts Claim Act coverage on December 1, 1993. Accordingly, Defendant Tony C. Lam, M.D. is deemed to be a U.S. Public Health Service employee covered by 42 U.S.C. §233(a) for acts and omissions that occurred after that date.


4. This Notice of Removal is brought pursuant to 28 U.S.C. § 1442(a)(1) and 28 U.S.C. §2679(d)(2). Se also, 42 U.S.C. §233(c). As set forth in 28 U.S.C. § 1442(a)(1), a civil action commenced in a state court against the United States or “any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, sued in an individual capacity for any act under color of such office...”, may be removed “to the district court of the United States for the district and division embracing the place wherein it is pending.” 28 U.S.C. §2679(d)(2), as well as 42 U.S.C. §233(c), provides for removal from state court “at any time before trial.”

5. As required by 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders that have been served upon Defendants are attached. A certified copy of the state court file has been requested and shall be filed with this Court upon receipt.

WHEREFORE, this action, now pending in the Circuit Court of the City of St. Louis, Missouri, is removed to this Court.

Respectfully submitted,


MICHAEL W. REAP  
Acting United States Attorney

/s/ Nicholas P. Llewellyn   
NICHOLAS P. LLEWELLYN E.D.Mo. #52836  
Assistant United States Attorney  
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**CERTIFICATE OF SERVICE**

I certify that a copy of the *Notice of Removal* and *Notice of Filing of Notice of Removal* was sent via United States mail, postage prepaid, this 18th day of September, 2009 to the following counsel of record:

Larry D. Hale  
THE HALE LAW FIRM  
1221 Locust Street, Suite 310  
St. Louis, MO 63103  
Attorney for Plaintiff

/s/ Nicholas P. Llewellyn   
NICHOLAS P. LLEWELLYN

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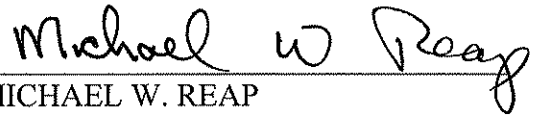
**CERTIFICATION OF SCOPE OF EMPLOYMENT**  
**UNDER 42 U.S.C. § 233(c) AND 28 U.S.C. § 2679(d)**

I, Michael W. Reap, am the Acting United States Attorney for the Eastern District of Missouri, and my office is responsible for the above-captioned action. I have read the Petition. Pursuant to the provisions of 42 U.S.C. § 233(c) and 28 U.S.C. § 2679(d), and by virtue of the authority vested in me by the Attorney General under 28 C.F.R. § 15.3, I hereby find, on the basis of the information now available with respect to the incident alleged in the Petition, that Defendant, TONY C. LAM, M.D., was an employee of People's Health Centers, Inc., ("People's") an entity receiving federal grant money from the United States Public Health Service pursuant 42 U.S.C. §§ 254b, 254c, 256, or 256a; that People's was deemed by the Department of Health and Human Services, pursuant to the Federally Supported Health Centers Assistance Act, (FSHCAA) 42 U.S.C. §233(g)-(n), eligible for coverage under the Federal Tort Claims Act effective December 1, 1993. See 42 U.S.C. §233(h) (deeming criteria).

Pursuant to 42 U.S.C. § 233(g), the Secretary of Health and Human Services has determined that Tony C. Lam, is an employee of the Public Health Service for purposes of the Federal Tort Claims Act only. Accordingly, I certify that Tony C. Lam, M.D. was acting within the scope of

employment at the time of the incident alleged in the Petition, and that pursuant to 42 U.S.C. § 233(g), he is deemed to be an employee of the United States for Federal Tort Claims Act purposes only for any acts or omissions that occurred on or about May 18, 2007.

Respectfully submitted,

A handwritten signature in black ink that reads "Michael W. Reap". The signature is written in a cursive style with a horizontal line underneath the name.

MICHAEL W. REAP  
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